

BUSINESS LISTING AGREEMENT

This BUSINESS LISTING AGREEMENT ("agreement"), entered into between Aerial Sphere, LLC, an Arizona limited liability company ("AerialSphere") and the person or entity agreeing to the terms of this agreement ("Listing Partner"). If you are acting on behalf of an entity, then you represent that you have the authority to enter into this agreement on behalf of that entity. The Effective Date is the date that the terms of this Agreement are accepted by Listing Partner.

1. Purpose. AerialSphere is providing Listing Partner with an opportunity to add information about Listing Partner's business, Listing Partner's products or services, or about Listing Partner's domain name or web site (referred to generally in this Service Agreement as "Advertising Content") to AerialSphere's website(s) (the "AerialSphere Platform").

2. License. Listing Partner hereby grants to AerialSphere a non-exclusive, royalty-free, worldwide right and license by all means and in any media to use, reproduce, distribute, modify for technical purposes, publicly perform, publicly display and digitally display the Advertising Content. Listing Partner further grants AerialSphere the right to distribute the Advertising Content to other third parties that wish to publish the Advertising Content in accordance with terms established by AerialSphere. AerialSphere may or may not edit the Advertising Content written and submitted by Listing Partner. Listing Partner agrees that Listing Partner shall bear all responsibility and liability for any and all claims related to the Advertising Content. Listing Partner further agrees that AerialSphere shall have no liability for any and all claims that relate to any Advertising Content, copy, data or text submitted by Listing Partner.

3. Right to Cancel or Remove Advertising Content. AerialSphere may, in its sole discretion, reject, cancel, or remove, at any time, any Advertising Content from the AerialSphere Platform for any reason or no reason, without prior notice to Listing Partner. AerialSphere will not be liable in any way for any rejection, cancellation or removal of any Advertising Content.

4. Termination. Either party may terminate this Agreement, upon written notice to the other party, for any reason or no reason. Termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

5. Representations and Warranties.

5.1 Each party represents and warrants that (a) it is a legal entity duly organized and validly existing under the laws of the state set forth in the preamble above; (b) the execution, delivery, and performance by such party of this Agreement are within the corporate powers of the party, have been duly authorized by all necessary corporate action on the part of the party, and will not violate any law, statute, or other governmental regulation that is applicable to the party's business, or any other agreement or instrument to which the party is a party; and (c) it has obtained or will obtain and maintain during the Term all rights, licenses, consents and authorizations necessary to perform its obligations as set forth in this Agreement.

5.2 Listing Partner represents and warrants that: (a) Listing Partner has all necessary authority to enter into this Agreement; (b) Listing Partner will comply with all applicable laws; (c) that all text, data and information submitted by Listing Partner for display as the Advertising Content is true, accurate, and complete; and that (d) any use and display of the Advertising Content shall not: (i) infringe or violate any patent, copyright, trademark, service mark, trade secret, or other intellectual property right of a third party, including any right of privacy or publicity; (ii) violate any federal, state or local laws or regulations or foreign laws; (iii) contain material that is pornographic, obscene, vulgar, defamatory, libelous, fraudulent, misleading, threatening, hateful, or racially or ethnically objectionable at the sole opinion of AerialSphere; (iv) condone or participate in any activities designed to harm

minors in any way; or (v) condone or participate in activities designed to impersonate the identity of a third party; or (vi) be likely to result in any consumer fraud, product liability, tort, breach of contract, injury, damage or harm of any kind to any person or entity.

5.3 THE AERIALSPHERE PLATFORM IS PROVIDED "AS IS". AERIALSPHERE DOES NOT WARRANT THAT THE AERIALSPHERE PLATFORM WILL OPERATE UNINTERRUPTED OR BE FREE FROM DEFECTS OR THAT THE AERIALSPHERE PLATFORM IS DESIGNED TO MEET LISTING PARTNER'S BUSINESS REQUIREMENTS. NEITHER AERIALSPHERE NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, OR THAT ACCESS TO ITS NETWORK WILL BE UNINTERRUPTED.

6. Limitation of Remedies and Damages.

6.1 AERIALSPHERE WILL NOT BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

6.2 AERIALSPHERE'S TOTAL AGGREGATE LIABILITY AND LISTING PARTNER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER ARISING HEREUNDER, WILL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY AERIALSPHERE' GROSS NEGLIGENCE IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF PAYMENTS MADE BY LISTING PARTNER UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

7. Indemnification. Listing Partner will indemnify, defend and hold harmless AerialSphere and its officers, directors, consultants, employees, successors and permitted assigns from and against any damages, losses, and expenses (including reasonable attorneys' fees), as a result of any third-party claim, demand or action (collectively, a "Claim") arising from: (i) any breach of any of the representations, warranties, or covenants made by Listing Partner hereunder; (ii) any claims arising from the Listing Partner's delivery of business or related services to third parties. AerialSphere will promptly notify Listing Partner in writing of any such Claim; provided that the failure to provide such notice will not relieve Listing Partner of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. Listing Partner will bear full responsibility for, and will have the right to solely control, the defense (including any settlements) of any such Claim; provided, however, that (i) Listing Partner will keep AerialSphere informed of, and consult with AerialSphere in connection with the progress of such litigation or settlement and (ii) Listing Partner will not settle any such Claim in a manner that does not unconditionally release AerialSphere without AerialSphere' written consent, not to be unreasonably withheld or delayed.

8. Confidential Information. Each party agrees that all code, inventions, know-how, business, technical and financial information it obtains ("Receiving Party") from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information excludes information that: (i) was in the public domain at the time it was disclosed or has become in the public domain through no fault of the Receiving Party; (ii) was known to the Receiving Party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed

with the prior written approval of the Disclosing Party; (iv) was independently developed by the Receiving Party without any use of Confidential Information of the Disclosing Party; or (v) becomes known to the Receiving Party, without restriction, from a source other than the Disclosing Party. Any software, documentation or technical information provided by AerialSphere (or its agents) that has not been The Receiving Party will not: (i) disclose any Confidential Information to any third party, except as otherwise expressly permitted herein; (ii) make any use of Confidential Information except: (a) to exercise its rights and perform its obligations under this Agreement; or (b) in connection with the parties' ongoing business relationship; or (iii) make Confidential Information available to any of its employees or consultants except those that have agreed to obligations of confidentiality at least as restrictive as those set forth herein and have a "need to know" such Confidential Information. The Receiving Party is liable for all acts and omissions of its employees and consultants to the extent that such act or omission would be a breach of this Agreement if done by Receiving Party. The Receiving Party will protect Confidential Information in the manner provided herein for five (5) years after receipt thereof, unless such obligation ceases earlier pursuant to this Section; provided that, to the extent the Confidential Information constitutes a trade secret under law, the Receiving Party agrees to protect such information for so long as it qualifies as a trade secret under applicable law.

9. General.

9.1 **Severability.** If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.

9.2 ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES WILL BE GOVERNED BY ARIZONA LAW, EXCLUDING THAT STATE'S CONFLICT OF LAWS RULES, AND WILL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS LOCATED IN MARICOPA COUNTY, ARIZONA, USA; THE PARTIES CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS.

9.3 **Equitable Relief.** Nothing in this Agreement will limit either party's ability to seek equitable relief.

9.4 **Notices.** Any notice hereunder will be in writing to the party's corporate headquarters, Attention: Chief Operating Officer and will be deemed given upon delivery if sent by: (i) personal delivery; (ii) certified or registered U.S. mail (return receipt requested); or (iii) overnight commercial delivery service.

9.5 **Amendments; Waivers.** No supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

9.6 **Entire Agreement.** This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No amendment, modification or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties.

9.7 **Independent Contractors.** The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

9.8 **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement if the delay or failure is due to events which are beyond the reasonable control of

such party, including but not limited to any strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or of telecommunications or data networks or services, or refusal of approval of a license by a government agency.

9.9 **Assignment.** Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, which will not be unreasonably withheld, and any such assignment in violation of this Section will be void, except that the transfer of this Agreement or rights granted hereunder to a successor entity in the event of a merger, corporate reorganization, or acquisition will not constitute an assignment for purposes of this Section. This Agreement will inure to the benefit of and be binding upon the parties hereto, and their successors and permitted assigns.

9.10 **Headings.** The headings in this Agreement are for purposes of reference only and will not in any way limit or affect the meaning or interpretation of any of the terms hereof.

9.11 Any questions about these terms, licensing, agreements or contracts should be sent to info@aerialsphere.com

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the capacities and on the dates shown below.

AERIAL SPHERE LLC

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____